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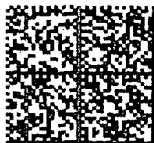
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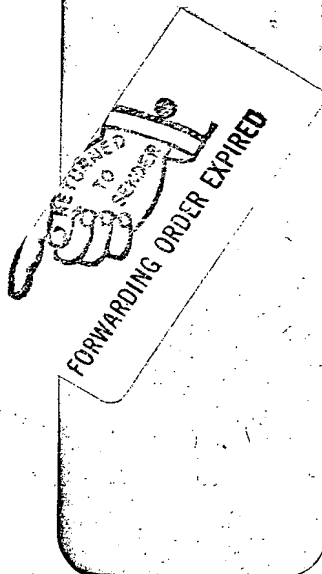
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/195,791	11/17/1998	MOHAMED K. DIAB	MASIMO.7CP1C	4687

7590 09/19/2005

Knobbe Martens Olson & Bear
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EXAMINER

WINAKUR, ERIC FRANK

ART UNIT	PAPER NUMBER
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3736

DATE MAILED: 09/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/195,791	DIAB ET AL.	
	Examiner	Art Unit	
	Eric F. Winakur	3736	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☒ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 15-26 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 15-26 is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) _ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>6/20 & 8/31/05</u> . | 6) <input type="checkbox"/> Other: ____ |

1. Applicant's Information Disclosure Statements filed 20 June 2005 and 31 August 2005 have been reviewed. The claims remain allowable over the prior art. The prior art teaches methods and apparatus for measuring saturation of a blood constituent in a patient including irradiating a patient with two wavelengths and detecting light that has passed through the patient, wherein the detected light includes a motion component. However, the prior art does not teach or suggest an apparatus or method for determining the saturation by generating a plurality of data packets from detected optical measurement signals at two wavelengths, and using a mathematical relationship relating first and second portions of the measured signals at both wavelengths and a ratio of the first portion of the signals at both wavelengths to generate at least first and second functions from the data packets, wherein the first and second functions have a final solution value indicative of the ratio.

2. This application is in condition for allowance except for the following formal matters:

While the potential interference with USPN 5,687,722 remains relevant to prosecution of the instant application, Applicant is hereby advised that new rules (see 37 CFR § 41.202 - 41.208, effective 13 September 2004) govern interference proceedings.

Applicant's previous submissions including the Request for Interference filed 17 November 1998 are noted. Applicant is requested to review their previous submissions and provide any additional submissions they deem necessary to conform with the new rules in response to this action [see in particular 37 CFR § 41.202 (a)(1)-(6) and 37 CFR

§ 41.202 (d)(1)-(2) and (e)(1)-(2)]. At a minimum, Applicant must indicate where the previous filings meet the new rules; however, if additional submissions are necessary to meet some requirements of the new rules, it is preferable for Applicant to submit all of the required information in a single filing.

Applicant's attention is drawn to 37 CFR § 41.202(d)(1)-(2) and 37 CFR § 41.204. Submissions provided after the interference has been forwarded to the board may not be considered timely.

Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.


A shortened statutory period for reply to this action is set to expire **TWO MONTHS** from the mailing date of this letter.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric F. Winakur whose telephone number is 571/272-4736. The examiner can normally be reached on M-Th, 7:30-5; alternate Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eleni Mantis-Mercader can be reached on 571/272-4740. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3736

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Eric F Winakur
Primary Examiner
Art Unit 3736

16 September 2005



PTO/SB/08 Equivalent

INFORMATION DISCLOSURE STATEMENT BY APPLICANT	Application No.	09/195,791
	Filing Date	November 17, 1998
	First Named Inventor	Mohamed K. Diab
	Art Unit	3736
(Multiple sheets used when necessary)	Examiner	Eric F. Winakur
SHEET 1 OF 14	Attorney Docket No.	MASIMO.7CP1C5

U.S. PATENT DOCUMENTS

Examiner Initials	Cite No.	Document Number Number - Kind Code (if known) Example: 1,234,567 B1	Publication Date MM-DD-YYYY	Name of Patentee or Applicant	Pages, Columns, Lines Where Relevant Passages or Relevant Figures Appear
E	1	Re. 35,122	12/19/1995	Corenman et al.	
E	2	3,638,640	02/01/1992	Shaw	
E	3	4,038,536	07/26/1977	Feintuch	
E	4	4,157,708	06/12/1979	Imura	
E	5	4,458,691	07/10/1984	Netravali	
E	6	4,537,200	08/27/1995	Widrow	
E	7	4,582,068	04/15/1986	Phillipps et al.	
E	8	B1 4,653,498	04/18/1989	New, Jr. et al.	
E	9	4,653,498	03/31/1987	New, Jr. et al.	
E	10	4,667,680	05/26/1987	Ellis	
E	11	4,714,341	12/22/1987	Hamaguri et al.	
E	12	4,751,931	06/21/1988	Briller et al.	
E	13	4,793,361	12/27/1988	DuFault	
E	14	4,799,486	01/24/1989	DuFault	
E	15	4,799,493	01/24/1989	DuFault	
E	16	4,800,885	01/31/1989	Johnson	
E	17	4,802,486	02/07/1989	Goodman et al.	
E	18	4,863,265	09/06/1989	Flower et al.	
E	19	4,867,571	09/19/1989	Frick et al.	
E	20	4,869,254	09/26/1989	Stone et al.	
E	21	4,883,353	11/28/1989	Hausman et al.	
E	22	4,911,167	03/27/1990	Corenman et al.	
E	23	4,928,692	05/29/1990	Goodman et al.	
E	24	4,934,372	6/19/1990	Corenman et al.	
E	25	4,949,710	08/21/1990	Dorsett et al.	
E	26	4,951,680	08/28/1990	Kirk et al.	
E	27	4,955,379	09/11/1990	Hall	
E	28	4,960,126	10/02/1990	Conlon et al.	
E	29	4,967,571	11/06/1960	Sporri	

Examiner Signature	Date Considered 9/14/05
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*Examiner: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

T¹ - Place a check mark in this area when an English language Translation is attached.

INFORMATION DISCLOSURE STATEMENT BY APPLICANT <i>(Multiple sheets used when necessary)</i>	Application No.	09/195,791
	Filing Date	November 17, 1998
	First Named Inventor	Mohamed K. Diab
	Art Unit	3736
SHEET 2 OF 14		Attorney Docket No. MASIMO.7CP1C5

U.S. PATENT DOCUMENTS					
Examiner Initials	Cite No.	Document Number Number - Kind Code (if known) Example: 1,234,567 B1	Publication Date MM-DD-YYYY	Name of Patentee or Applicant	Pages, Columns, Lines Where Relevant Passages or Relevant Figures Appear
E	30	5,036,857	08/06/1991	Semmlow et al.	
	31	5,040,201	08/13/1991	Slump	
	32	5,041,187	08/20/1991	Hink et al.	
	33	5,054,495	10/08/1991	Uemura et al.	
	34	5,243,993	09/14/1993	Alexander et al.	
	35	5,379,774	01/10/1995	Nishimura et al.	
	36	5,494,032	02/27/1996	Robinson et al.	
	37	5,853,364	12/29/1998	Baker, Jr. et al.	
	38	6,083,172	07/04/2000	Baker, Jr. et al.	
E	39	6,411,833 B1	06/25/2002	Baker, Jr. et al.	

FOREIGN PATENT DOCUMENTS						
Examiner Initials	Cite No.	Foreign Patent Document Country Code-Number-Kind Code Example: JP 1234567 A1	Publication Date MM-DD-YYYY	Name of Patentee or Applicant	Pages, Columns, Lines Where Relevant Passages or Relevant Figures Appear	T ¹
E	40	EP 0 359 206 B1	03/29/1995	Kanda		
E	41	JP-A-63-171539	07/15/1988	(In Japanese)		
	42	WO 92/46055	09/17/1992	Diab et al.		
E	43	WO 97/00041	01/03/1997	Yorkey		
E	44	WO 98/42249	10/01/1998	Baker et al.		
E	45	WO 98/43071	10/01/1998	Baker et al.		

NON PATENT LITERATURE DOCUMENTS			
Examiner Initials	Cite No.	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published.	T ¹
E	46	U.S. District Court, Central District of California (Western Division - Los Angeles) Civil Docket for Case #: 2:00-cv-06506-MRP-AJW.	
E	47	U.S. District Court, Central District of California (Western Division - Los Angeles) Civil Docket for Case #: 2:01-cv-07292-MRP-AJW.	
E	48	U.S. District Court, Central District of California (Western Division - Los Angeles) Civil Docket for Case #: 2:01-cv-07293-MRP-AJW.	
E	49	Complaint for Patent Infringement of US. Patent Nos. 6,206,830 B1 and 6,157,850; Demand for Jury Trial, dated 7/6/01.	

Examiner Signature <i>E</i>	Date Considered <i>9/14/05</i>
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	Filing Date	November 17, 1998
	First Named Inventor	Mohamed K. Diab
	Art Unit	3736
(Multiple sheets used when necessary)	Examiner	Eric F. Winakur
SHEET 3 OF 14	Attorney Docket No.	MASIMO.7CP1C5

NON PATENT LITERATURE DOCUMENTS

Examiner Initials	Cite No.	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published.	T ¹
	50	First Amended Complaint for Patent Infringement of U.S. Patent Nos. 6,206,830 B1, 6,157,850 and 6,263,222 B1; Demand for Jury Trial, dated 7/18/01.	
	51	Nellcor's and Mallinckrodt's Answer to First Amended Complaint, dated 8/20/01.	
	52	Nellcor's and Mallinckrodt's Amended and Supplemental Answer and Counterclaims to Masimo Corporation's First Amended Complaint in Case No. CV-01-7292 MRP (AJWx), dated 5/31/02.	
	53	Masimo's Reply to Nellcor's and Mallinckrodt's Amended and Supplemental Answer and Counterclaims to Masimo's First Amended Complaint in Case No. CV-01-7292 MRP (AJWx), dated 8/27/02.	
	54	Complaint for Patent Infringement of US. Patent Nos. 4,653,498, 5,078,136 and Re. 36,000, dated 11/17/99.	
	55	Defendant Masimo Corp.'s Answer and Counterclaims, dated 12/8/99.	
	56	Mallinckrodt's and Nellcor's Reply to Counterclaims of Masimo; Demand for Jury Trial, dated 12/28/99.	
	57	Mallinckrodt's and Nellcor's Amendment Complaint for Patent Infringement of U.S. Patent Nos. 4,653,498, 5,078,136, Re. 35,122 and Re. 36,000; Demand for Jury Trial, dated 1/24/00.	
	58	Defendant Masimo Corp.'s Amended Answer and Counterclaims, dated 2/7/00.	
	59	Nellcor's Reply to Amended Counterclaims of Masimo Corporation, dated 2/22/00.	
	60	Mallinckrodt's and Nellcor's Second Amended Complaint for Patent Infringement of U.S. Patent Nos. 4,621,643, 4,653,498, 4,700,708, 5,078,247, Re. 35,122 and Re. 36,000; Demand for Jury Trial, dated 10/13/00.	
	61	Masimo Corp.'s Answer to Plaintiffs' Second Amended Complaint and Counterclaims; Demand for Jury Trial, dated 11/2/00.	
	62	Mallinckrodt Inc.'s and Nellcor Puritan Bennett, Inc.'s Reply to Counterclaims of Masimo Corporation; Demand for Jury Trial, dated 12/1/00.	
	63	Nellcor's and Mallinckrodt's First Amended and Supplemental Reply and Counterclaims to Counterclaims of Masimo Corporation, dated 5/31/02.	
	64	Masimo's Reply to Nellcor's and Mallinckrodt's First Amended and Supplemental Reply and Counterclaims to Counterclaims of Masimo, dated 8/27/02.	
	65	Nellcor's Third Amended Complaint for Patent Infringement of U.S. Patent Nos. 4,621,643, 4,653,498, 4,700,708, 5,078,136, 5,807,247 and Re. 36,000; Demand for Jury Trial, dated 7/31/02.	
	66	Masimo's Answer to Counterclaims to Nellcor's Third Amended Complaint for Patent Infringement; Demand for Jury Trial, dated 8/27/02.	
	67	Complaint for Patent Infringement of U.S. Patent No. 5,490,505; Demand for Jury Trial, dated 10/8/99, entered 10/15/99.	

Examiner Signature	Date Considered 9/14/05
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	Art Unit	3736
	Examiner	Eric F. Winakur
SHEET 4 OF 14	Attorney Docket No.	MASIMO.7CP1C5

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	68	Mallinckrodt's and Nellcor's Answer and Counterclaims, dated 11/1/99.	
	69	Plaintiff's Masimo Corp.'s Reply to Defendants' Counterclaims, dated 11/22/99.	
	70	Amended Complaint for Patent Infringement of U.S. Patent Nos. 5,490,505 and 6,036,642; Demand for Jury Trial, dated 4/5/00, entered 4/18/00.	
	71	Answer to First Amended Complaint and Amended Counterclaim; Demand for Jury Trial, dated 5/1/00.	
	72	Plaintiff Masimo Corp.'s Reply to Defendants' First Amended Counterclaims; Demand for Jury Trial, dated 5/18/00.	
	73	Nellcor's and Mallinckrodt's Amended and Supplemental Answer to Counterclaims to Masimo Corporation's First Amended Complaint in Case No. CV-01-7293-MRP (AJWx), dated 5/31/02.	
	74	Masimo's Reply to Nellcor's and Mallinckrodt's Amended and Supplemental Answer and Counterclaims to Masimo's First Amended Complaint in Case No. -01-7293 MRP (AJWx), dated 8/27/02.	
	75	Memorandum of Decision re: Mallinckrodt and Nellcor's Motion for Summary Judgment of Invalidity of Claim 19 of U.S. Patent No. 5,490,505.	
	76	Minute Order 1) Granting Defendants' Motion for Summary Judgment of Non-Infringement of '642 Patent; 2) Denying Plaintiff's Motion for Preliminary Injunction; 3) Granting Plaintiff's Ex Parte Application to Strike Defendants' Supplemental Declaration, dated 10/4/00, entered 10/6/00.	
	77	Defendant's Mallinckrodt's and Nellcor's Statement of Uncontroverted Facts and Conclusions of Law.	
	78	Findings of Fact and Conclusions of Law Regarding Masimo's Motion for Preliminary Injunction.	
	79	Judgement in <i>Masimo Corp. v. Mallinckrodt Inc.</i> , Court of Appeals for the Federal Circuit No. 01-1038, dated 8/8/01, entered 10/17/01.	
	80	Memorandum of Decision and Order Re: 1) Claim Construction; 2) Motion to Strike Masimo's Declarations, entered 2/27/03.	
	81	Final Judgment, entered 8/6/04.	
	82	Memorandum of Decision and Order Re: Post-Trial Motions, dated 7/12/04, entered 7/14/04.	
	83	Memorandum and Points and Authorities in Support of Mallinckrodt's and Nellcor's Motion for Summary Judgment of Invalidity of Claim 19 of U.S. Patent No. 5,490,505, dated 8/30/00.	
	84	Masimo's Opposition to Defendants' Motion for Summary Judgment for Summary Judgment of Invalidity of Claim 19 of U.S. Patent No. 5,490,505, dated 9/21/00.	
	85	Reply Memorandum and Points and Authorities in Support of Mallinckrodt's and Nellcor's Motion for Summary Judgment of Invalidity of U.S. Patent No. 5,490,505, dated 10/13/00.	

Examiner Signature	Date Considered 9/14/05
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	Art Unit	3736
SHEET 5 OF 14	Examiner	Eric F. Winakur
	Attorney Docket No.	MASIMO.7CP1C5

NON PATENT LITERATURE DOCUMENTS

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	86	Brief of Plaintiff-Appellant Masimo Corporation, dated 12/8/00.	
	87	Non-Confidential Brief of Defendants-Cross Appellants Mallinckrodt Inc and Nellcor Puritan Bennett, Inc., dated 1/22/01.	
	88	Nonconfidential Reply Brief of Plaintiff-Appellant Masimo Corporation, dated 2/6/01.	
	89	Masimo Corp.'s Initial Claim Construction on Its Asserted Patents, dated 6/21/02.	
	90	Declaration of Jack Goldberg in Support of Masimo Corp.'s Initial Claim Construction on Its Asserted Patents, dated 6/21/02.	
	91	Notice of Errata and Corrected Appendices for Mallinckrodt's and Nellcor's Statement Regarding Disputed Claim Terms of the Asserted Patents, dated 9/12/02 (Final Version).	
	92	Expert Declaration of Robert T. Stone Re: Masimo's Patent-In-Suit, dated 7/18/02.	
	93	Masimo Corp.'s Opening Memorandum of Claim Construction, dated 9/16/02.	
	94	Nellcor's and Mallinckrodt's Opening Claim Construction Brief on the Patent-In-Suit, dated 9/16/02.	
	95	Masimo Corp.'s Reply Memorandum on Claim Construction, dated 10/18/02.	
	96	Nellcor's and Mallinckrodt's Reply Claim Construction Brief on the Patents-In-Suit, dated 10/18/02.	
	97	Nellcor's Trial Brief on Indefiniteness, dated 3/23/04.	
	98	Masimo's Trial Brief of Indefiniteness, dated 3/24/04.	
	99	Nellcor's Trial Brief re Inequitable Conduct, dated 3/23/04.	
	100	Masimo's Trial Brief regarding Inequitable Conduct, dated 3/24/04.	
	101	Nellcor's Memorandum of Points and Authorities in Support of: (1) Argument on Bench Trial and (2) Renewed Motion for Judgment as a Matter of Law or Alternatively, a New Trial.	
	102	Masimo's Memorandum of Points and Authorities in Opposition to Nellcor's (1) Argument on Bench Trial and (2) Renewed Motion for Judgment as a Matter of Law or for a New Trial.	
	103	Memorandum of Points and Authorities in Support of Masimo's Motion for (1) Judgment as a Matter of Law that Nellcor Literally Infringes Claim 17 of the '850 Patent and Claims 16 and 23 of the '222 Patent; (2) A Permanent Injunction; (3) An Accounting for Infringing Sales Occurring in 2004; and (4) Prejudgment Interest.	


Examiner Signature	Date Considered 9/14/05
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SHEET 6 OF 14		Examiner Eric F. Winakur Attorney Docket No. MASIMO.7CP1C5

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✓	104	Nelcor's Opposition to Masimo's Motion for Judgment as a Matter of Law and Other Post-Trial Issues.	
	105	Brief of Defendant-Appellant Masimo Corporation.	
	106	Confidential Brief of Plaintiffs-Cross Appellants Mallinckrodt, inc. and Nelcor Puritan Bennett, Inc.	
	107	Letter to Mr. Hornbaly, Clerk of Fed. Cir., indicating that the parties agreed that the Confidential Brief (Ref. No. 106) do not need to remain confidential.	
	108	Reply Brief of Defendant-Appellant Masimo Corporation.	
	109	Reply Brief of Plaintiffs-Cross Appellants Mallinckrodt, Inc. and Nelcor Puritan Bennett, Inc.	
	110	Nelcor's Response to Masimo's First Set of Interrogatories in the Consolidated Case to Mallinckrodt Inc. and Nelcor Puritan Bennett, Inc. (Nos. 1-8), dated 8/23/02.	
	111	Nelcor's Supplemental Response to Masimo's First Set of Interrogatories in the Consolidated Case (No. 2), dated 6/24/03.	
	112	Nelcor's Revised and Corrected Supplemental Response to Masimo's First Set of Interrogatories in the Consolidated Case (No. 2), dated 6/25/03.	
	113	Service Manual: Nelcor -100 Pulse Oximeter, 5 button model, Copyright 1993.	
	114	J. Corenman Computation Notebook, marked 06/23/82 - 06/22/83.	
	115	B. Widrow & S. Stearns, "Adaptive Signal Processing," Prentice-Hall, Copyright 1985.	
	116	N-100 Source Code, Copyright 1983-86.	
	117	N-100, Source Code, Copyright 1976-87.	
	118	"Welcome to the World of Nelcor Pulse Oximetry," Nelcor brochure, in 16 pages, undated.	
	119	"Oximax, Sensor Conversion Step," Nelcor brochure, copyright 1997.	
	120	"Motion-tolerant SpO ₂ ," Philips brochure, undated.	
	121	"Introducing New Hand-Held Digital Pulse Oximeter and Sensor with Patented Technologies," Philips, printed from internet site "http://www.oximetersonline.com", 1 page.	
✓	122	"Novamatrix Announces FDA Clearance of New Pulse Oximeter," 2-Mar-2000 Press release in 2 pages.	


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	Filing Date	November 17, 1998
	First Named Inventor	Mohamed K. Diab
	Art Unit	3736
	Examiner	Eric F. Winakur
SHEET 7 OF 14	Attorney Docket No.	MASIMO.7CP1C5

NON PATENT LITERATURE DOCUMENTS


Examiner Initials	Cite No.	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published.	T ¹
2	123	"Detax-Ohmeda Announces New Products at the American Society of Anesthesiologist, New Orleans," downloaded from internet in 3 pages.	
	124	"OSI Systems Announces FDA 510k Approval of First All Digital Pulse Oximeter Monitor," showing date of 4/23/01 in 2 pages.	
	125	Alaris Medical Systems, "Summary of Safety and Effectiveness" in 3 pages.	
	126	Letter to Alaris Medical Systems from Dept. of Health & Human Services, showing date of 9/11/02 in 3 pages.	
	127	BCI 510(k) FDA Submission 2000-2002.	
	128	Datex-Ohmeda 510(k) FDA Submission 2000-2002.	
	129	Dolphin 510(k) FDA Submission 2002.	
	130	Fukuda Denshi 510(k) FDA Submission 2001.	
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	134	Siemens Medical 510(k) FDA Submissions 2002.	
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

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	148	M. Jopling, P. Mannheimer & D. Bebout; "Issues In The Laboratory Evaluation Of Pulse Oximeter Performance"; Anesthesia & Analgesia, Vol. 94, Copyright 2001.	
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Σ	158	Haykin, S., "Adaptive Filter Theory," 1st ed., Prentice-Hall, Inc., 1986.	
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Σ	160	Clark R. Baker and Thomas J. Yorkey, "Calculation of Pulse Rate in Pulse Oximetry," dated 10/4/93.	

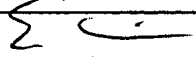
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	161	Clark R. Baker and Thomas J. Yorkey, "A Proposal for PostProcessing and Display for 04 Saturation and Pulse-Rate Algorithms," dated 10/4/93.	
	162	Description of PCSat; dated 10/16/91.	
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	165	Flewelling, Ross, "Oximetry Technology: Strategies for New Development," listing date of 2/95.	
	166	"Safety Monitoring in the Regular Inpatient Care Area - National Sales Meeting," listing date of 1992.	
	167	Swedlow, "Pulse Oximetry," undated.	
	168	Five Generations of Nellcor Oximetry, undated.	
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	177	M. Jopling, P. Mannheimer & D. Bebout, "Issues in the Laboratory Evaluation of Pulse Oximeter Performance," STA-ISLAPO Meeting Supplement, pp. S62-S68, Copyright 2001.	
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

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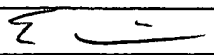
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	190	Dolphin Medical Integration Manual, OEM-601 Module, listing date of 12/16/02.	
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	205	Nellcor Requirements, Marketing Product, MP 404, listing date of 08/22/95.	
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	207	Trial Transcript in <i>Masimo Corporation v. Mallinckrodt, Inc., et al</i> , CV 99-1245-AHS, 9/25/00 (Pgs 1-50).	
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	213	Trial Transcript in <i>Mallinckrodt, Inc., et al v. Masimo Corporation</i> , CV 00-6506 MRP, 2/25/04 (Pgs 807-902).	
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	217	Trial Transcript in <i>Mallinckrodt, Inc., et al v. Masimo Corporation</i> , CV 00-6506 MRP, 3/2/04 (Pgs 1470-1617).	

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	218	Trial Transcript in <i>Mallinckrodt, Inc., et al v. Masimo Corporation</i> , CV 00-6506 MRP, 3/3/04 (Pgs 1618-1795).	
	219	Trial Transcript in <i>Mallinckrodt, Inc., et al v. Masimo Corporation</i> , CV 00-6506 MRP, 3/4/04 (Pgs 1796-1986).	
	220	Trial Transcript in <i>Mallinckrodt, Inc., et al v. Masimo Corporation</i> , CV 00-6506 MRP, 3/5/04 (Pgs 1987-2145).	
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	233	Trial Transcript in <i>Mallinckrodt, Inc., et al v. Masimo Corporation</i> , CV 00-6506 MRP, 3/25/04 (Pgs 3984-4054).	
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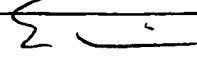
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NON PATENT LITERATURE DOCUMENTS

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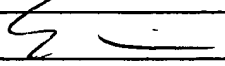
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INFORMATION DISCLOSURE

STATEMENT BY APPLICANT

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Attorney Docket No.	MASIMO.7CP1C5

U.S. PATENT DOCUMENTS

Examiner Initials	Cite No.	Document Number Number - Kind Code (if known) Example: 1,234,567 B1	Publication Date MM-DD-YYYY	Name of Patentee or Applicant	Pages, Columns, Lines Where Relevant Passages or Relevant Figures Appear

FOREIGN PATENT DOCUMENTS

Examiner Initials	Cite No.	Foreign Patent Document Country Code-Number-Kind Code Example: JP 1234567 A1	Publication Date MM-DD-YYYY	Name of Patentee or Applicant	Pages, Columns, Lines Where Relevant Passages or Relevant Figures Appear	T ¹

NON PATENT LITERATURE DOCUMENTS

Examiner Initials	Cite No.	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published.	T ¹
✓	1	Supplemental Response to Plaintiff Masimo's First Set of Interrogatories to Defendant Mallinckrodt Inc. Pursuant to FED.R.CIV.P.26(e).	
	2	Nellcor's Second Supplemental Response to Masimo's First Set of Interrogatories in Consolidated Case (No. 2), dated 7/14/03.	
	3	Addendum to Nellcor's Second Supplemental Response to Masimo's First Set of Interrogatories in the Consolidated Case (No. 2), dated 7/15/03.	
	4	Second Addendum to Nellcor's Second Supplemental Response to Masimo's First Set of Interrogatories in the Consolidated Case (No. 2), dated 8/10/03.	
	5	Third Addendum to Nellcor's Second Supplemental Response to Masimo's First Set of Interrogatories in the Consolidated Case (No. 2), dated 8/13/003.	
Σ	6	Nellcor's October 13, 2003 Supplemental and Revised Response to Masimo's First Set of Interrogatories in the Consolidated Case (No. 2), dated 10/13/03.	

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Examiner Signature

Date Considered

9/14/05

*Examiner: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

T¹ - Place a check mark in this area when an English language Translation is attached.